

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
STRATEGIC FIXED INCOME, L.L.C. and
STRATEGIC FIXED INCOME, UK LLP,

Plaintiffs,

-against-

DECISION ECONOMICS, INC.,

Defendant.
-----X

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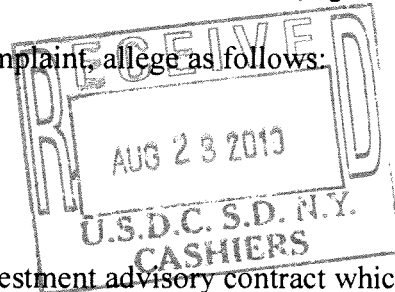
COMPLAINT

JUDGE BUCHWALD

Plaintiffs Strategic Fixed Income, L.L.C. and Strategic Fixed Income, UK LLP (together, “Strategic”), by their attorneys, Schiff Hardin LLP, for their Complaint, allege as follows:

Summary of Claim

1. This is an action seeking a declaration that an investment advisory contract which defendant Decision Economics, Inc. (“Decision Economics”) previously entered into with plaintiffs violates federal law, specifically, the Investment Advisers Act of 1940, 15 U.S.C. §80-b et. seq. (the “Advisers Act”), and is inconsistent with defendant’s fiduciary responsibilities, because it purports to entitle Decision Economics, a registered investment adviser under the Advisers Act, to payments from Strategic even after Decision Economics’ services have been terminated by Strategic and temporally limits the ability of Strategic to terminate the investment adviser-client relationship pursuant to the contract with Decision Economics during any year with respect to that year, permitting such termination to be effective only as to the year subsequent to the cancellation. Injunctive relief also is sought.



The Parties

2. Plaintiff Strategic Fixed Income, L.L.C. is a limited liability corporation formed and existing under the laws of the State of Delaware and having its principal place of business at Potomac Tower, Suite 1400, 1001 Nineteenth Street North, Arlington, Virginia 22009.

3. Plaintiff Strategic Fixed Income, UK LLP, is a limited liability partnership formed and existing under the laws of England and Wales with its principal place of business at 11 Fenchurch Avenue, London, England EC3M 5BN. Strategic Fixed Income, UK LLP is indirectly entirely owned by Strategic Fixed Income, L.L.C.

4. On information and belief, defendant Decision Economics is a corporation formed and existing under the laws of the Commonwealth of Massachusetts, with its principal place of business at One Boston Place, Suite 1650, Boston, Massachusetts 02108-4402 and an additional place of business at 530 Fifth Avenue, 7th Floor, New York, New York 10036 in the City and County of New York.

5. The plaintiffs are investment advisers. Strategic Fixed Income, L.L.C. is registered as such in the United States and Strategic Fixed Income, UK LLP is regulated by the Financial Services Authority in the United Kingdom. Plaintiffs manage the portfolios of advisory clients.

6. On information and belief, defendant Decision Economics is an investment adviser registered as such in the United States and offers personalized investment advice to advisory clients, including plaintiffs.

Jurisdiction and Venue

7. The Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 (federal question jurisdiction), 1337 (regulation of commerce) and 2201 and 2202 (declaratory relief).

8. Venue lies in this district because defendant is licensed to do business in the State of New York, at all relevant times had and has an office in this district and, on information and belief, states that inquiries about sales of its investment advisory services should be directed to the New York City office.

Allegations Common to All Claims

9. For seven decades, federal law has regulated investment advisers like the defendant, comprehensively and in detail, by statute and by rules, as well as through inspections and enforcement activities of the Securities and Exchange Commission ("SEC"). The primary goal of that elaborate federal regulatory scheme is the protection of advisory clients from investment adviser misconduct and breaches of trust by investment advisers, given the fiduciary nature of the relationship between an investment adviser and its advisory clients. Section 206 of the Advisers Act, 15 U.S.C. § 80b-6, makes it "unlawful for any investment adviser, by use of the mails or any means . . . of interstate commerce, directly or indirectly, (1) to employ any device, scheme, or artifice to defraud any client . . . ; (2) to engage in any transaction practice, or course of business which operates as a fraud or deceit upon any client . . . ; . . . [or] . . . (4) to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative." As fiduciaries to their investment advisory clients, investment advisers are required to observe the highest standards of conduct and act in the best interests of their clients at all times, including with regard to advisory contracts with, and fees charged to, clients for advisory services.

10. On or about November 29, 2007, defendant entered into a written agreement pursuant to which it would provide individualized investment advisory services to the trading professionals of both plaintiffs, geared to the particular characteristics of the portfolios of

Strategic's advisory clients and the trading strategies utilized by plaintiffs. A copy of the executed agreement, which at different points refers to both plaintiffs as "Client," is annexed as Exhibit A ("Agreement").

11. On information and belief, at all relevant times Decision Economics was and is a registered investment adviser, subject to the Advisers Act and the SEC rules promulgated thereunder. Among other things, defendant was required to and did deliver Part II of Form ADV, an SEC form required to be provided by investment advisers to prospective clients, as recited in the Agreement.

12. Among other things, the Agreement provides that it shall be for a one-year term, automatically renewable for successive one-year terms, unless either party gives notice of termination of the Agreement at least 30 days before the end of each one-year term.

13. The Agreement further provides that, even after such notice prior to the 30th day before the end of the then-current term of the Agreement, plaintiffs continue to be liable for the payment of defendant's full annual fee for the year in which such notice is given, which is \$120,000. The Agreement makes no provision for a refund of any portion of the fee under any circumstance.

14. The Agreement contemplates that Decision Economics will provide what constitutes "investment supervisory services" to Strategic, which is defined in Section 202(a)(13) of the Advisers Act, 15 U.S.C. §80b-2(a)(13), as "the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client."

15. Defendant, from or at locations in the United States, provided services to plaintiffs on a recurrent basis at various locations in the United States and in the United

Kingdom, including by means of mailings, in-person presentations, e-mails and telephone conferences.

16. On or about May 27, 2010, plaintiffs terminated their Agreement with defendant, effective immediately.

17. Defendant has refused to acknowledge said cancellation of the Agreement by plaintiffs. Notwithstanding plaintiffs' termination of the Agreement, defendant insists it is entitled to payment of fees for the balance of the one-year period which began in November, 2009, based on the Agreement's provisions concerning renewal, cancellation and the term during which fees will be payable.

18. The SEC repeatedly has taken the position that investment advisory agreements and fee arrangements that penalize a client for terminating an investment adviser relationship, or which have the effect of making a client reluctant to terminate an investment adviser relationship, violate Section 206 of the Advisers Act and are inconsistent with the adviser's fiduciary status and responsibility. This has been reflected in numerous no-action letters from the SEC Division of Investment Management dating at least as far back as 1974. Letter re: *Churchill Management Corporation* (May 30, 1974). More specifically, the SEC long has required investment advisers to refund unearned prepaid advisory fees when the client relationship has been terminated. Most recently, the SEC revised Form ADV, Part II to require explicitly that advisers set out how and when unearned fees will be refunded on a pro rata basis. Advisers Act Release No. 3060 (July 28, 2010), 75 Fed. Reg. 49234 (Aug. 12, 2010). In particular, Item 5.D of Part IIA of the Form ADV requires investment advisers to provide the following disclosure:

If your clients either may or must pay your fees in advance, disclose this fact. Explain how a client may obtain a refund of a pre-paid fee if the

advisory contract is terminated before the end of the billing period.
Explain how you will determine the amount of the refund.

19. Section 215(b) of the Advisers Act, 15 U.S.C. § 80b-15(b), further provides that "[a]ny condition, stipulation, or provision binding on any person to waive compliance with any provision of this title or with any rule, regulation, or order thereunder shall be void," and "[e]very contract made in violation of any provision of this subchapter . . . the performance of which involves violation of, or the continuance of any relationship or practice in violation of any provision of this subchapter, or any rule, regulation or order thereunder, shall be void . . . as regards the rights of any person who, in violation of any such provision, rule, or order, shall have made or engaged in the performance of any such contract"

**AS AND FOR A CLAIM FOR RELIEF
(Declaratory Judgment of Violation of Investment Adviser Act of 1940)**

20. The allegations of Paragraphs 1 to 19 are repeated and realleged as if set forth at length.

21. There is an actual, justiciable controversy between plaintiffs and defendant. Defendant has threatened to commence litigation to compel payment of fees for the cancelled Agreement. The intervention of the Court is required to declare the rights and other legal relations of the parties.

22. By reason of (i) the Agreement's limitation of the period during which plaintiffs as advisory clients can terminate Decision Economics' services as an investment adviser; (ii) the Agreement's requirement that nonrefundable payment of fees be made by plaintiffs as advisory clients to Decision Economics as an investment adviser in advance of its performance of advisory services; and (iii) the Agreement's tendency to discourage advisory clients from terminating the investment adviser relationship with Decision Economics, both the Agreement,

and defendant's insistence on being paid a non-refundable advance fee even after termination, violate Section 206 of the Advisers Act, 15 U.S.C. §80b-6

23. By reason of the foregoing, the Agreement is unenforceable under Section 215(b) of the Advisers Act, 15 U.S.C. § 80b-15(b).

WHEREFORE, plaintiffs request that the Court enter judgment against the defendant:

(1) declaring that the Agreement's provisions (a) limiting the effectiveness of termination of the Agreement by plaintiffs, and thereby of plaintiffs' client relationship with defendant as investment adviser, to the year succeeding the year in which notice of such termination is given and (b) requiring advance, non-refundable payment of fees for investment advisory services penalize plaintiffs for terminating defendant as an investment adviser and have the effect of discouraging plaintiffs or other clients from terminating defendant as an investment adviser, violate Section 206 of the Investment Adviser Act of 1940, 15 U.S.C. § 80b-6, because they constitute a device, scheme, or artifice to defraud plaintiffs, and a practice and course of business which operates as a fraud and deceit upon plaintiffs, and therefore, to that extent, the Agreement is null, void and unenforceable under Section 215 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-15(b);

(2) further declaring that defendant's insistence on being paid advance, non-refundable fees, even after termination by plaintiffs, violates Section 206 of the Investment Advisers Act of 1940, 15 U.S.C. §80b-6, as a device, scheme or artifice to defraud plaintiffs, and a practice and course of business which operates as a fraud and deceit upon plaintiffs and therefore, to that extent, the Agreement is null, void and unenforceable under Section 215 of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-15(b);

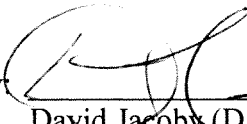
(3) permanently enjoining defendant from enforcing or seeking to enforce the Agreement's provisions described in (1) above and from engaging in the conduct described in (2) above; and

(4) granting such other and further incidental relief in favor of plaintiffs as may be just.

Dated: New York, New York
August 20, 2010

Yours, etc.,

SCHIFF HARDIN LLP

By 
David Jacoby (DJ 3440)

900 Third Avenue
New York, New York 10022
(212) 753-5000

ATTORNEYS FOR PLAINTIFFS
STRATEGIC FIXED INCOME L.L.C. and
STRATEGIC FIXED INCOME, UK LLP

NY\50862048.1

EXHIBIT A

**DECISION ECONOMICS, Inc.**

Information for Decisions™

Website: www.decisioneconomicsinc.com
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Tel: 011-44-20-7814-6706
Fax: 011-44-20-7959-3344One Boston Place, Suite 1650
Boston, MA 02108
Tel: 617-994-0507
Fax: 617-994-0501/0502**STRATEGIC FIXED INCOME LLC (LONDON/D.C.)
SERVICES DESCRIPTION**

Tier I Information Support Program provided to Strategic Fixed Income LLC ("Client") for purposes of ongoing supporting and enhancing tactical and strategic global proprietary macro trading and investments in fixed income and currencies as indicated by Client. Primary geographic focus U.S., Japan, U.K., Eurozone, and EMG (highlighting China, and Russia, also including, Turkey, India, Mexico, Central and South America, Eastern Europe, Asia ex-Japan) along with other countries selected by Client.

Decision Economics, Inc. (DE) will provide high-frequency, focused monitoring, interpretation, analyses and forecasts of fundamental economic, policy, inflation, political and other market-related factors that affect the levels and direction of interest rates (including credit spreads and relative value), and currency exchange rates, U.S. and global. *Special emphasis on policy*—U.S. Federal Reserve, U.S. Treasury, European Central Bank (ECB), Bank of England (BOE), Bank of Japan (BOJ), Japan Ministry of Finance (MOF), Bank of China (BOC)—highlighting impacts upon Client existing and considered positions. Additionally, any other factors, macro issues, potential risks and information that may affect U.S. and Global fixed income and currency markets, especially when different from Consensus. **Principal Recipients** for all information, particularly high-frequency and other time-relevant, *Mr. Jeffrey Brummette and Mr. Kenneth Windheim and others as designated by Client.*

DE Client Liaison(s)—Dr. Allen Sinai, Chief Global Economist/Strategist (Boston, New York), Dr. Pierre Ellis, Senior Managing Director and Senior U.S. and Global Fixed Income Economist (New York), Dr. Francisco Larios, Chief Economist and Strategist/Emerging Countries and Markets (Miami), and Mr. Andrew Wroblewski, Chief Eurozone and U.K. Economist (London); the ongoing contacts for the Client, available to the Client, facilitating use of the DE information and professional knowledge base in monitoring, interpretation, and analyses of the U.S. and global economies, Federal Reserve and other Central Bank policies, and the key fundamental factors affecting the U.S. Treasury and credit markets, corporate yield spreads to Treasuries, factors underlying fair value and risk ranges for currencies and equity markets, and other asset prices and/or yields.

Decision Economics, Inc. will not disclose any information nor give any advice based upon information, the disclosure of which would violate the law of any jurisdiction in which such information is received or disclosed, nor any confidentiality.

Information Support Program—Components**Personalized**

- **Weekly Strategic "Trading Floor" Financial Market Teleconferences**—led by Dr. Sinai (U.S., Global Macro and Themes) and/or other DE Senior Staff as warranted, at Client-designated mutually convenient, but regular, times for Mr. Brummette, Mr. Windheim and/or as many participants as Client designates. 10-to-20 minutes duration. Q&A integral part. Upcoming major indicator releases and Central Bank Policy focused, also significant market-moving data which impacts upon dominant trends and/or Client positions, issues, events, themes, based on original DE research, meetings, facts and forecasts impacting on U.S. and global fixed income, currency, and equity markets.

Dialogue regarding:

- focus on market direction and pricing versus DE forecasts, especially when market pricing diverges from DE forecasts mid- and longer-term.
- discussion and analysis of Central Bank Meetings, speeches and views of Members, with focus upon shifts in thinking.
- macroeconomic fundamentals such as the economy, inflation, funds flows, Fed views and policy—monitoring, interpretation and forecasts—high-frequency and longer-term.

**DECISION ECONOMICS, INC.**

Information for Decisions™

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Fax: 011-44-20-7959-3344One Boston Place, Suite 1650
Boston, MA 02108
Tel: 617-994-0507
Fax: 617-994-0501/0502**Services Description (p.2)****Strategic Fixed Income LLC**

- significant market-moving data, issues, events, themes, based on original, objective Decision Economics, Inc. research.
- "early warning" flags on new or emerging themes, fundamental factors, and/or issues, in advance, that may move markets or impact upon **Client** positions.
- geopolitical and other risk factors that may affect U.S. and global fixed income, currency, and equity markets.
- **Dialogue and Tactical/Strategic Trading Information Support**—telephonic reports on, discussions of, and implications for markets discerned from meetings with policymakers and/or advice on potential risks or market significant events, when possible, as occur, subject to disclosure limitations as above—Dr. Sinai (U.S., Global), Dr. Larios (EMG), Dr. Leahey (Treasury and Consumer) and other Senior Staff, as warranted. Communications, if possible, to occur on an "as happens" basis. *Restricted to direct Clients of Allen Sinai*
- **Semi-Annual "Sounding Board" Trading and Investment Strategy Meetings (On-Site: London or Washington, D.C.); Two (2) Per Annum with Dr. Allen Sinai**—focus on **Client** questions, emphasis on exploration of new themes and ideas as well as findings, forecasts, and analyses that relate to tactical trading and investment in assets and countries of **Client** interest and for strategic investments of **Client**. Other DE Senior Staff, as warranted. As many Attendees as **Client** designates. Agenda **Client**-driven. One (1) hour in duration.
- **Fed and Central Bank "Factset" Teleconferences**—6-8 times per year, a few days prior to each important Fed or other relevant (to **Client**) Central Bank Meeting. A brief, factual rundown by Dr. Sinai and/or Dr. Ellis, Dr. Larios, Mr. Andrew Wroblewski, Chief Eurozone and U.K. Economist (London), on the factors surrounding the upcoming Federal Reserve or Central Bank Meeting, what is important and what is not from the central bank's point-of-view, status of the factors affecting monetary policy, and Bank Member views. (*Will be incorporated into weekly meetings*).
- **Washington and Overseas Policy Analysis**—Dr. Sinai's views on Washington, including Federal Reserve monetary policy; Treasury and fiscal policy; Japanese (BOJ and MOF) policies, Bank of England (BOE); European Central Bank (ECB); Bank of Canada (BOC); Bank of China (BOChina); Bank of Korea (BOK), on a select basis as impact upon U.S. and Global fixed income, currency, and equity markets.
- **High-Frequency Indicator and Trading Information Support (Dr. Sinai, Dr. Ellis, Dr. Leahey, Dr. Larios, Mr. Wroblewski)**—immediate—telephone, email support on U.S., Japan, UK/Eurozone, Canada and EMG economic indicators, implications for markets and policy, with emphasis on emerging new themes from the data, and/or events.
- **Outsourced Economic Staff Support**—access to DE research staff for **Client**. Requests to DE Staff for situational reports, quick company or thematic studies, general data, research and information, on an as-needed basis.

DE Economic and Financial Markets Outlook Group Conference Calls—usually led by Dr. Sinai.

U.S. focus, on advance notice, with other clients included, on major economic indicators, events, shifts in prospects or forecasts, approximately two (2) per month, generally following release of Employment Report, first reports of quarterly GDP, key data, or other Events. As many designate(s) call-ins as **Client** wishes.

Publications—selected DE publications via E-Mail, DE Website or Bloomberg that relate to DE economic and market themes, monitoring of fixed income, equity and other relevant markets, factors and forecasts, provided to Mr. Brummette, Mr. Windheim and up to six (6) other individuals designated by the **Client**.



DECISION ECONOMICS, Inc.
Information for Decisions™

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PUBLICATIONS

Prepared for: STRATEGIC FIXED INCOME LLC (LONDON/D.C.)

1. ***The Morning Briefing—Europe/US Editions*** (Worldwide Staff—Daily)—market-relevant data, events that occur, with interpretation, themes and Decision Economics, Inc. views by global region; Summary Table (Weekly) of major Forex, fixed income, equity, and commodities prices and asset yields. Provides clients with “Globe at a Glance” and a constant stream of Decision Economics, Inc. monitoring and analyses (E-Mail, DE Website).
2. ***Forecast Calendars*** (U.S., Global Summary, Eurozone, Germany, France, Italy, U.K., Japan, EMG) (late Friday U.S. release)—weekly economic indicators forecasts (with Consensus projections included) and short analyses, U.S. and global, based on original research by Decision Economics, Inc. (E-Mail, DE Website). Used for monitoring and trading.
3. ***Email/Bloomberg-Delivered Commentaries Plus Indicator Comments***—written by Dr. Ellis, Dr. Leahey or Mr. Horwitz, Mr. Wroblewski and Dr. Larios, these short, concise messages deliver the DE opinion and interpretation on key economic indicators and events in the U.S., U.K./Eurozone and EMG countries that affect fixed income, equity markets, and foreign exchange. Used for monitoring, interpretation, and occasional forecast revisions, delivered via Bloomberg terminal or E-mail address.
4. ***Bulletins*** (Periodic)—timely brief reports on significant economic, financial, policy and political events in U.S. and other countries. Written as warranted (E-Mail, DE Website).
5. ***Prospects*** (Approximately Monthly and Periodic, Dr. Leahey)—brief studies of thematic topics for financial markets; issues related to the U.S. economy, sectors, industries, regions; international issues also explored. Provides depth and insights as developed from Decision Economics, Inc. macroeconomic research (E-Mail, DE Website).
6. ***Economic Outlook and Issues*** (Occasional, Dr. Sinai and Senior Staff)—U.S. economic outlook, sector detail, interest rates, profits, S&P500 EPS, equity markets, exchange rates on quarterly and annual frequency. U.S. Forecast Summary (eight per year) Table and interim updates. Available in real-time through requests to DE Liaison. Concisely provides clients with updated DE view of U.S. Economic Outlook and Risks (E-Mail, DE Website).
7. ***Global Economic Developments in Review*** (Weekly, Monday arrival)—review of key economic and financial market data worldwide along with a relevant Topic Focus (front page) and Country Focus (inside page) (E-Mail, DE Website).

29-NOV-2007 16:12 From:

To: 617 994 0502

P.2



Decision Economics, Inc.
Information for Decisions™

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Fax: 617-994-0801/0802

CLIENT AGREEMENT

Prepared for: **STRATEGIC FIXED INCOME UK LLP**

Services of Decision Economics, Inc., or its successor corporation, provided to Strategic Fixed Income UK LLP ("Client") as outlined in the Services Description.

Services shall commence on *December 1, 2007*. Henceforth, this date shall be referred to as the Agreement Date.

The initial term of this Agreement shall commence on the Agreement Date as stated above and shall run for a period of one (1) year. Unless either party notifies the other in writing at least thirty (30) days in advance, upon expiration of the initial one (1) year term and each subsequent one (1) year term, services shall continue under the terms and conditions set forth herein for an additional period of one year at an annual fee of \$120,000 U.S.

Secondary distribution of Decision Economics, Inc. materials, information and/or information services to "Decision Sites" other than the aforementioned organization, or as specified in the attached Services Description and except as contracted, is strictly prohibited without written permission from Decision Economics, Inc.

Decision Economics, Inc. will bill separately any mutually agreed upon incidental expenses for data, materials, video transmissions or travel, which become necessary to provide services.

The Investment Advisers Act of 1940 requires that all registered investment advisors make available to prospective clients a copy of Part II of the standard registration form (Form ADV) for such advisors. As a separate attachment, Part II of the Form ADV for Decision Economics, Inc. has been sent. Please indicate your receipt and reading of Part II of Form ADV at least 48 hours prior to entering into this Agreement by signing, where indicated, below.

Fee \$100,000 U.S. (Annual) for First Year

\$120,000 U.S. (Renewal for Second Year)

Billed quarterly in equal amounts to the Client or designated "Soft Dollar" vendor

DECISION ECONOMICS, INC.

By: Rex Nowell
Title: Senior EVP/Director

Date: 11/29/07

STRATEGIC FIXED INCOME UK LLP (LONDON)

By: JEFFREY E. BRUNETTE
Title: PARTNER

Date: 11/29/07

FORM ADV

By: JEFFREY E. BRUNETTE
Title: PARTNER

Date: 11/29/07